

AS

Notice of Allowability	Application No.	Applicant(s)	
	09/881,473	FERESHTTEKHOU ET AL.	
	Examiner	Art Unit	
	Ula C Ruddock	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/24/04 and 4/8/04.
2. ☒ The allowed claim(s) is/are 1, 4-16, 18-25, 27-30, 32-37, 39-83.
3. ☒ The drawings filed on 14 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>3/30/04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendment and accompanying response filed March 24, 2004 and April 8, 2004. All rejections have been overcome.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on March 30, 2004 has been considered by the examiner.

Terminal Disclaimer

3. The terminal disclaimer filed on March 24, 2004, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application Numbers 09/410592, 09/082349, and 09/833869 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Amendment

4. The declaration under 37 CFR 1.132 filed March 24, 2004 and April 8, 2004, is sufficient to overcome the rejection of claims 1-62 based upon Shizuno et al. (US 5,525,397), Henry (US 4,064,061), Thrasher (US 5,342,436), Gilmore et al. (US 5,369,858), Mackey (US 5,756,112), and Zelazoski et al. (US 5,536,555) under 35 U.S.C. 102(b) and 103.

Reasons for Allowance

5. Claims 1, 4-16, 18-25, 27-30, 32-37, and 39-83 are allowed.
6. The following is an examiner's statement of reasons for allowance: the rejections in view of Shizuno et al. (US 5,525,397), Henry (US 4,064,061), Thrasher (US 5,342,436), Gilmore et al. (US 5,369,858), Mackey (US 5,756,112), and Zelazoski et al. (US 5,536,555) have all been overcome.

While the Shizuno et al. reference is believed to be the closest prior art, it fails to teach or disclose an Average Height Differential of at least about 1mm, as further evidenced by Applicant's declaration under 37 C.F.R. 1.132.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR

Ula C. Ruddock
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